

Section 319(b) of the Act. In addition, we propose to eliminate, as unnecessary, the requirement that permittees that modify unbuilt stations certify that construction will commence immediately upon grant.⁸⁹ We likewise propose to eliminate the analogous certification requirement for assignees and transferees.⁹⁰ We seek comment on these proposals.

67. *Automatic Forfeiture of Expired Construction Permits.* While Section 319(b) of the Act provides for the automatic forfeiture of an expired construction permit (unless the Commission authorizes additional time or the delay was caused by circumstances outside the permittee's control),⁹¹ the Commission's practice has been to take an affirmative action cancelling a construction permit before it is forfeited.⁹² As a result, we are compelled to dedicate scarce staff resources to cancel expired construction permits and then notify permittees of our action. In an effort to streamline this process, we propose to make a construction permit subject to automatic forfeiture, without further Commission action, upon expiration of the three-year construction period proposed in paragraph 61 *supra*. We seek comment on whether an automatic cancellation policy for expired construction permits should be adopted and our tentative conclusion that such a procedure would be consistent with the Act's automatic forfeiture provision.

68. *Application of New Rules to Outstanding Permits.* Finally, we propose that the rules regarding construction permits, and extensions thereof, that we adopt in this rulemaking proceeding be applied to any construction permit that is currently in its initial construction period (*i.e.*, the first 24 months for a full power TV facilities permit and the first 18 months for an AM, FM, International Broadcast, low power TV, TV translator, TV booster, FM translator, FM booster, or broadcast auxiliary permit).⁹³ We invite comment on how to implement our proposal and whether implementation would cause unjustifiable hardship to permittees or would result in a disservice to the public. We believe, however, that it would be administratively unworkable to apply the proposed rules to construction permits that are already beyond their initial construction periods (whether through extension, assignment, transfer of control, or modification). Because many of these permits have already been afforded a construction period close to (or, in many instances, in excess of) the three-year term proposed in this *Notice*, we propose to continue to apply the rules as they exist today to permits outside their initial periods. We invite comment on the tentative conclusion that it is more appropriate to continue to apply our current rules to construction permits that are beyond their initial periods.

E. Modifying Pro Forma Assignments and Transfers

69. *Background.* Pursuant to the Act and current Commission rules and policies, prior Commission

⁸⁹ See 47 C.F.R. § 73.3535(b).

⁹⁰ See 47 C.F.R. § 73.3535(a).

⁹¹ See *supra* note 72 and accompanying text.

⁹² See *Edward A. Baker v. FCC*, 834 F.2d 181, 185 (D.C. Cir. 1987); *1985 MO&O*, 102 FCC 2d at 1058 n.11.

⁹³ We note that we have broad rulemaking authority to revise our processing rules and to apply the new rules to pending applicants. See *Maxcell Telecom Plus v. FCC*, 815 F.2d 1551, 1555 (D.C. Cir. 1987) (upholding decision to decide pending cellular cases by lottery rather than by comparative hearing). See also *Chadmoore Communications v. FCC*, No. 96-1061 (D.C. Cir. May 20, 1997) (upholding the denial of an application for an extension of the construction period based on a subsequently adopted rule disallowing such extension, because no right to an extension vested upon the filing of the application).

consent is required for assignments or transfers of control of broadcast licenses or permits.⁹⁴ Under Section 310(d) of the Act:

No construction permit or station license, or any rights thereunder, shall be transferred, assigned, or disposed of in any manner, voluntarily or involuntarily, directly or indirectly, or by transfer of control of any corporation holding such permit or license, to any person except upon application to the Commission and upon finding by the Commission that the public interest, convenience and necessity will be served thereby.⁹⁵

70. Unauthorized transfer of control of a broadcast permit or license is a serious rule violation, which can result in the imposition of severe penalties, including loss of license. Consent for involuntary assignments or transfers of control or those that do not involve a "substantial change in ownership or control" may be obtained by filing a "short form" application, FCC Form 316, which requires less information than our "long forms," FCC Forms 314 and 315, and is not subject to the public notice and a thirty-day petition to deny procedure under Section 309 of the Act.⁹⁶ Assignments or transfers that may be filed on Form 316 are:

- (1) assignment from an individual or individuals (including partnerships) to a corporation owned and controlled by such individuals or partnerships without any substantial change in their relative interests;
- (2) assignment from a corporation to its individual stockholders without effecting any substantial change in the disposition of their interests;
- (3) assignment or transfer by which certain stockholders retire and the interest transferred is not a controlling one;
- (4) corporate reorganization which involves no substantial change in the beneficial ownership of the corporation;
- (5) assignment or transfer from a corporation to a wholly owned subsidiary thereof or vice versa, or where there is an assignment from a corporation to a corporation owned or controlled by the assignor stockholders without substantial change in their interests; or
- (6) assignment of less than a controlling interest in a partnership.⁹⁷

71. Additionally, Form 316 may be used to seek FCC consent to the involuntary assignment of license or transfer of control upon the death or legal disability of an individual permittee or licensee, a person directly or indirectly in control of a corporate permittee or licensee, or a member of a partnership, where the assignment or transfer is to a person or entity legally qualified to succeed to the foregoing interests under the laws of the

⁹⁴ 47 U.S.C. § 310(d); 47 C.F.R. § 73.3540(a); 47 C.F.R. § 73.3541. The instructions to FCC Form 323 set out examples of when particular transactions constitute a transfer of control or an assignment requiring prior Commission consent. For a general survey of this area, see Stephen F. Sewell, *Assignments and Transfers of Control of FCC Authorizations Under Section 310(d) of the Communications Act of 1934*, 43 *Fed. Comm. L. J.* 277 (1991).

⁹⁵ 47 U.S.C. § 310(d).

⁹⁶ 47 U.S.C. § 309(b), (c)(2)(B), (d). In the case of short form applications, however, the Commission entertains informal objections, under 47 C.F.R. § 73.3587, which may be filed any time up until Commission action on the application.

⁹⁷ 47 C.F.R. § 73.3540(f). The standard for determining when a "long form" as opposed to a "short form" is required and vice versa is set out in *Clay Broadcasters*, 21 RR 2d 442 (1971); *Barnes Enterprises*, 55 FCC 2d 721, 725 n.4 (1975); *Grace Missionary Baptist Church*, 80 FCC 2d 330 (1980).

place having jurisdiction over the estate involved.⁹⁸ Such cases include assignments or transfers to a bankruptcy trustee pursuant to Court order.⁹⁹

72. *Discussion.* We note that approximately 35 percent of radio and television assignment and transfer applications propose *pro forma* transactions and are filed on FCC Form 316. Every effort is made to process these routine applications quickly. Indeed, the average processing time from filing in Pittsburgh to FCC action for both Audio Services Division ("ASD") and Video Services Division ("VSD") is approximately ten days, and fewer than five days from receipt of the applications by either Division. Moreover, both ASD and VSD are able to accommodate filers by initiating short form application processing with a receipt-stamped copy of the Pittsburgh filing. Where speed is demonstrated to be critical, both divisions can issue manually-released public notices in order to complete processing within a single business day. Nevertheless, some broadcasters have claimed that these speed of disposal rates have caused financial and other problems with respect to these *pro forma* transactions.

73. In this regard, we note past suggestions by broadcasters and others that the current *pro forma* assignment and transfer process can be streamlined and regulatory burdens on licensees substantially reduced with respect to certain routine transfers and assignments. For certain *pro forma* transfers and assignments, which do not affect actual control of the licensee or permittee and which are routinely and virtually always granted by the Commission, broadcasters have questioned whether they should be required to file an application and wait for a grant. Our goal is to streamline our procedures to the extent possible to eliminate any significant problems or unnecessary regulatory burdens. Therefore, we invite comment on such proposals. We specifically ask commenters to identify any specific situations or transactions in which such short processes may cause difficulties, and how, so that we can tailor our procedures accordingly.¹⁰⁰

74. We particularly note that some types of *pro forma* assignments or transfers may be suited for streamlined procedures. For example: (1) court-ordered transfers to a bankruptcy trustee; (2) certain corporate reorganizations (such as a change in an intermediate subsidiary); (3) reorganization by a corporate licensee in another state where no other changes are made; (4) involuntary assignment of license or construction permit or transfer of control due to death or legal disability of the individual permittee or licensee; and (5) assignment of less than a controlling interest in a partnership? We invite comment on whether these and/or other categories of *pro forma* transfers and assignments should be subjected to a streamlined procedure.

75. While we seek to reduce unnecessary regulatory burdens, we note that our ability to ease our rules with respect to any transfers and assignments is constrained by the tenets of Section 310(d) of the Act, which, as noted above, requires prior Commission consent to transfers and assignments "in any manner." Accordingly, we invite comment as to how we may streamline our procedures while nonetheless complying with Section 310(d).

76. We note past suggestions that we adopt a notification procedure for certain *pro forma* transfers and assignments instead of requiring a Form 316 application process and prior Commission consent. Under such a streamlined procedure certain assignments and transfers, as listed above, could be carried out by

⁹⁸ 47 C.F.R. § 73.3541.

⁹⁹ See, e.g., *O.D.T. International*, 9 FCC Rcd 2575 (1994).

¹⁰⁰ We have been informally advised that one common problem results from last-minute restructuring, often for tax purposes, during the final stages of closing an approved transaction.

licensees or permittees, subject only to a requirement that the Commission be notified of the assignment or transfer within a certain period thereafter (say 30 days) and the requirement that an Ownership Report Form be filed within 30 days after the assignment or transfer.¹⁰¹ Notification and the filing of the Ownership Report would be important to ensure that the Commission's license records are kept current.

77. Would Section 310(d) permit us to adopt such a notification procedure? While we have adopted a notification procedure for *pro forma* assignments and transfers for certain telecommunications carriers, which are also governed by Section 310(d), in that case, we were expressly given forbearance authority under Section 10 of the Telecommunications Act of 1996.¹⁰² No such forbearance authority applies here. Nonetheless, it can be argued that Section 310(d) would permit us to make a blanket finding that certain types of *pro forma* transactions are *per se* in the public interest, so that an individual finding would not then need to be made in a particular case, thereby allowing such transactions to go forward upon notification to the Commission. In one context, the Cable Television Relay Service ("CARS"), we have streamlined transfers by providing that prior Commission consent is not required for assignments or transfers of control "in cases where the change in ownership does not affect the identity or controlling interest of the licensee."¹⁰³ We do not require Commission notification of such transfers. We invite comment as to whether this precedent is applicable to broadcast transfers.

78. We invite comment on the procedures that should be followed for notifications of transactions that are determined to fall outside the scope of *per se* grantable applications. Commenters should also consider the procedures we should adopt in response to notifications for transactions that we conclude are both voluntary and involve a substantial change in ownership or control, and thus are subject to the public notice and petition to deny provisions of Section 309(d). Finally, we invite comment on the sanctions that should be imposed for such erroneous notifications.

79. The Commission also uses "short form" procedures in connection with tender offers and proxy contests to acquire control of entities that hold Commission licenses.¹⁰⁴ Under these expedited procedures an

¹⁰¹ See 47 C.F.R. § 73.3615(f).

¹⁰² *Memorandum Opinion and Order, Forbearance from Section 310(d) of the Communications Act Regarding Non-substantial Assignments of Wireless Licenses and Transfers of Control Involving Telecommunications Carriers*, FCC 98-18, released February 4, 1998; Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56, Sect. 10, codified at 47 U.S.C. § 160(a).

¹⁰³ 47 C.F.R. § 78.35(c). In adopting this rule, we explained that:

[W]e see no need for FCC approval in cases where ownership transfer does not result in a change in the identity of the licensee or the ultimate controlling interest of the licensee. Section 310(d) [of the Act] requires Commission approval only when a license is transferred to another person or when control of a corporation holding a license is transferred. Thus, Section 310(d) does not appear to require FCC approval of ownership changes that do not involve a change in the identity or controlling interest of the licensee. *Pro forma*, or "short form," assignments or transfers of control which do involve such changes will continue to require approval. (footnotes omitted)

Report and Order in MM Docket No. 84-886, 100 FCC 2d 1136, 1140-41 (1985).

¹⁰⁴ See generally *Tender Offers and Proxy Contests*, 59 Rad. Reg. 1536 (1986), *appeal dismissed sub nom. Office of Communication of the United Church of Christ v. FCC*, 826 F.2d 101 (D.C. Cir. 1987).

acquiring entity initially files a Form 316 application with a request that the Commission grant a special temporary authorization to permit a transfer of control from the shareholders of the target entity to an independent trustee of a voting trust.¹⁰⁵ Generally, the special temporary authorization imposes various conditions to prevent a bidder from exercising control of the tendered stock and from attempting to influence the actions of the trustee. If successful, the Commission must pass on the qualifications of the acquiring entity in a "long form" application. We question whether the streamlining options considered in this *Notice* should apply to our tender offer and proxy contest processing policies. Our experience is that established procedures substantially accommodate the need of bidders for expeditious Commission review and consent. Moreover, unlike "routine" *pro forma* transfers, these applications contemplate a substantial change in ownership or control of a licensee or permittee entity and the immediate grant of a special temporary authorization to a trustee empowered to collect stock and exercise control of such entity on an interim basis. Thus, the FCC application process can generate controversial fact-specific issues that implicate core regulatory concerns not amenable to a prospective *per se* public interest determination.¹⁰⁶ Accordingly, we seek comment on our tentative conclusion that the proposed streamlining procedures should not be extended to cover the processing of "short form" applications relating to tender offers and proxy contests for control of Commission licensees.

80. Assuming that a notification procedure could be adopted consistent with Section 310(d), are there benefits to obtaining prior consent to such transactions that would be lost if we adopt a notification requirement? Should we require that a notification and Ownership Report both be filed with the Commission or, in the alternative, would an Ownership Report be sufficient in this regard? Is the thirty-day period an appropriate time limit for the notification requirement? Should we require that a notification letter be filed, or should we adopt a new notification form for this purpose? If we require that a notification letter or form be filed, what information should be required to be filed in the letter? Finally, should we place such notifications on public notice to permit the public an opportunity to seek reconsideration of the application of the "blanket" consent to a particular transaction? Alternatively, would a requirement that the notification be placed in the station's public file be sufficient in this regard?

81. As an alternative to a notification procedure, we could keep the current application process but, in the case of certain specified *pro forma* assignments and transfers, permit applicants to proceed, at their own risk, to consummate the transfer or assignment if Commission action denying the application is not taken within a set short period after the application is filed. We invite comment as to whether this alternative would be consistent with Section 310(d). We note that the Commission would, in the event that this proposal is adopted, retain the authority to deny the assignment or transfer even after such a consummation and require that the transaction be unwound. Thus, we believe, the Commission's authority under Section 310 of the Act would be retained.

82. Assuming we could adopt such an alternative procedure consistent with Section 310(d), we invite comment as to what the time period for required Commission action should be and as to whether ten business days is an appropriate time period for this purpose. Further, we invite comment as to whether such a proposal would significantly and meaningfully reduce regulatory burdens and provide adequate relief. We note our concern that it may be difficult to unwind sales or transfer transactions after they have occurred and invite

¹⁰⁵ See, e.g., *Macfadden Acquisition Corp.*, 104 FCC 2d 545, 565-66 (1986); *Viacom, Inc.*, 8 FCC Rcd 8439 (1993).

¹⁰⁶ See, e.g., *Viacom, Inc.*, 8 FCC Rcd 8439, 8441 (1993) (requiring Trustee to divest himself of stock to insure "strict insulation from the bidder").

comment as to whether this is a significant negative factor that we should consider or whether we should rely on applicants to make a reasoned judgment as to whether they should take the risk that the Commission may later unwind a transaction that has been consummated prior to FCC consent. We note that this proposal would apply only to narrow categories of *pro forma* transfers and assignments, as specified above, where Commission consent is virtually always received. We invite comment on all aspects of this proposal.

F. Streamlined Ownership Reporting Requirements

83. *Background.* Section 73.3615 of the Commission's rules requires that, with the exception of sole proprietorships and partnerships composed entirely of natural persons, licensees of commercial AM, FM and TV broadcast stations file an Ownership Report on FCC Form 323 once a year, on the anniversary of the date that their license renewal applications must be filed.¹⁰⁷ A licensee owning more than one station may file one such report per year, on the anniversary date of its choice, provided that its reports are not more than one year apart. A permittee of a new commercial AM, FM or TV station must also file an Ownership Report within 30 days of the date of grant of an application for the original construction permit and on the date that it applies for a license for that new station. A licensee or permittee which has a current and unamended Ownership Report on file need not file a new report, but instead may file a letter with the Commission verifying that the licensee or permittee has reviewed its current report and that it is still accurate. In addition, the Commission routinely requests that Form 323 be filed within 30 days of the consummation of an authorized transfer of control or assignment of license.

84. Licensees of noncommercial educational AM, FM and TV broadcast stations must file an Ownership Report on FCC Form 323-E at the time their applications for renewal are required to be filed, which now is every eight years.¹⁰⁸ As in the case of commercial licensees, the Commission also routinely requires that Form 323-E be filed within 30 days of consummation of an authorized transfer of control or assignment of license. In addition, a supplemental Ownership Report must be filed by a noncommercial educational licensee or permittee within 30 days after *any* change occurs in the information previously reported.

85. *Streamlining Proposal.* We propose to reduce the frequency with which Ownership Reports (FCC Forms 323 and 323-E) for commercial and noncommercial educational AM, FM and TV broadcast stations must be filed with the Commission. Currently, most licensees of commercial broadcast stations are required to file Ownership Reports annually. Our proposal would relax this requirement so that such licensees would have to file Ownership Reports when they file their stations' license renewal applications and four years thereafter, at the mid-point of their scheduled license term. In addition, we propose to formalize the Commission's current practice of requesting an Ownership Report within 30 days of an approved assignment or transfer by amending Section 73.3615 of the Commission's Rules to specifically require that a commercial or noncommercial educational licensee or permittee shall file an Ownership Report on FCC Form 323 or 323-E within 30 of days of consummation of an approved license assignment or transfer of control. In the event that we adopt a notification procedure for certain *pro forma* assignments and transfers, we propose to also require the filing of an Ownership Report within thirty days of the consummation of those transactions. We invite comment on all aspects of these proposals. We also invite comment on whether we should adopt the same proposed relaxed ownership reporting requirements for noncommercial educational AM, FM and TV broadcast station licensees and permittees. In addition, we invite comment as to whether, as discussed more fully above, we should institute mandatory electronic filing for Ownership Report forms.

¹⁰⁷ 47 C.F.R. § 73.3615.

¹⁰⁸ 47 C.F.R. § 73.1615(d); 73.1020(a).

86. We tentatively believe that our proposed relaxed ownership reporting requirements would ease the paperwork burden on licensees and permittees without impairing the public's ability to ascertain the identities of broadcast station owners. Similarly, we believe that our relaxed requirements would not adversely affect the Commission's ability to monitor ownership of commercial and noncommercial educational broadcast stations and compliance with our multiple ownership limitations and the alien ownership and prior consent provisions of Section 310 of the Communications Act of 1934, as amended. We note that Ownership Reports rarely generate challenges or complaints. We invite comment on these tentative conclusions.

87. Under the current ownership reporting system, many commercial licensees can file the same basic certification letter each year, referencing a full Ownership Report filed years earlier. The obligation to file a full report on the annual reporting date, however, is often triggered by slight changes in ownership, for which prior approval is not required. In such cases, the Commission receives little new information from the licensee. Since the Commission must approve major ownership changes in advance, and Ownership Reports reflecting changes due to transfers or assignments would be required to be filed in connection with consummation of sales transactions and transfers, we would be able to retain current information on the controlling interests in licensees and permittees. Accordingly, we do not believe that our regulatory functions would be impeded if we are informed of less substantial changes less frequently than annually. We, of course, have the ability to obtain at any time full, current ownership information from any licensee should such information be needed to discharge our regulatory responsibilities. We invite comment as to whether our proposals would hinder members of the public and other broadcasters in obtaining necessary ownership information and monitoring ownership changes.

88. As discussed above, the current ownership reporting requirements are stricter for noncommercial stations than for commercial stations. We believe that the supplemental reporting requirement, under which a noncommercial educational licensee or permittee must file within 30 days after any change in previously reported information, may be especially burdensome for noncommercial permittees and licensees. This requirement often serves to elicit information of less substantial changes for which prior Commission approval is not required. As noted above, we propose, therefore, to conform the Form 323-E reporting requirements to our Form 323 reporting requirements, as revised. We seek comment on whether eliminating the 30-day supplemental reporting requirement, coupled with the addition of a regular four-year filing requirement, will result in an overall reduction of the burden on noncommercial educational licensees.

89. While we have proposed a four-year reporting interval for noncommercial and commercial permittees or licensees, we invite comment as to whether a two-year or other reporting interval would be more appropriate or beneficial. In this regard, commenters contending that a four-year reporting requirement would be detrimental to the public's or the Commission's ability to monitor adequately significant changes in the ownership of broadcast stations should provide specific examples and arguments to substantiate their position.

III. ADMINISTRATIVE MATTERS

90. *Comments and Reply Comments.* Pursuant to applicable procedures set forth in Sections 1.415 and 1.419 of the Commission's Rules, 47 C.F.R. Sections 1.415 and 1.419, interested parties shall file comments within sixty (60) days of the date of publication of this *Notice* in the Federal Register and reply comments within ninety (90) days of the date of publication of this *Notice* in the Federal Register. To file formally in this proceeding, you must file an original plus six copies of all comments, reply comments, and supporting comments. If you want each Commissioner to receive a personal copy of your comments, you must file an original plus eleven copies. You should send comments and reply comments to Office of the Secretary, Federal Communications Commission, 1919 M Street, N.W., Washington, D.C. 20554. Comments and reply comments will be available for public inspection during regular business hours in the FCC Reference Center

(Room 239), 1919 M Street, N.W., Washington, D.C. 20554.

91. *Initial Paperwork Reduction Act of 1995 Analysis.* This Notice proposes rule and procedural revisions which may contain an information collection requirement. As part of our continuing effort to reduce paperwork burdens, we invite the general public and OMB to take this opportunity to comment on the information collection contained in this Notice, as required by the Paperwork Reduction Act of 1995, Pub. L. No. 104-13. Public and agency comments are due at the same time as other comments on this Notice; OMB comments are due 60 days from the date of publication of this Notice in the Federal Register. Comments should address: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology. In addition to filing comments with the Secretary, a copy of any comments on the information collections contained herein should be submitted to Judy Boley, Federal Communications Commission, Room 234, 1919 M Street, N.W., Washington, DC 20554, or via the Internet to jboley@fcc.gov and to Timothy Fain, OMB Desk Officer, 10236 NEOB, 725 - 17th Street, N.W., Washington, DC 20503 or via the Internet to fain_t@al.eop.gov.

92. *Ex parte Rules.* This proceeding will be treated as a "permit-but-disclose" proceeding subject to the "permit-but-disclose" requirements under Section 1.1206(b) of the rules. 47 C.F.R. § 1.1206(b), as revised. *Ex parte* presentations are permissible if disclosed in accordance with Commission rules, except during the Sunshine Agenda period when presentations, *ex parte* or otherwise, are generally prohibited. Persons making oral *ex parte* presentations are reminded that a memorandum summarizing a presentation must contain a summary of the substance of the presentation and not merely a listing of the subjects discussed. More than a one or two-sentence description of the views and arguments presented is generally required. See 47 C.F.R. § 1.1206(b)(2), as revised. Additional rules pertaining to oral and written presentations are set forth in Section 1.1206(b).

93. *Initial Regulatory Flexibility Analysis.* With respect to this Notice, an Initial Regulatory Flexibility Analysis ("IRFA") is contained in Appendix A. As required by the Regulatory Flexibility Act,¹⁰⁹ the Commission has prepared an IRFA of the expected significant economic impact on small entities by the policies and rules proposed in this Notice. Written public comments are requested on the IRFA. We ask a number of questions in our IRFA regarding the prevalence of small businesses in the industries covered by this Notice. Comments on the IRFA must be filed in accordance with the same filing deadlines as comments on the Notice and must have a distinct heading designating them as responses to the IRFA.

94. Accordingly, IT IS ORDERED that pursuant to the authority contained in Sections 4(i), 4(j), 303, 308, 309, and 310 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 154(j), 303, 308, 309, and 310, this Notice of Proposed Rule Making IS ADOPTED.

95. IT IS FURTHER ORDERED that the Commission's Office of Public Affairs, Reference Operations Division, SHALL SEND a copy of this Notice, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

96. *Additional Information.* For additional information on this proceeding, please contact Peter Doyle, Audio Services Division, Mass Media Bureau (202) 418-2780; James J. Brown, Video Services

¹⁰⁹ Pub. L. No. 96-354, 94 Stat. 1164, 5 U.S.C. § 601 *et seq.* (1981), as amended.

Division, Mass Media Bureau (202) 418-1600; or Mania K. Baghdadi, Policy and Rules Division, Mass Media Bureau (202) 418-2130.

FEDERAL COMMUNICATIONS COMMISSION

A handwritten signature in cursive script, reading "Magalie Roman Salas".

Magalie Roman Salas
Secretary

APPENDIX A

As required by the Regulatory Flexibility Act ("RFA"),¹¹⁰ the Commission has prepared this present Initial Flexibility Analysis ("IRFA") of the possible significant economic impact on small entities by the policies and rules proposed in this Notice of Proposed Rule Making ("Notice"). Written public comments are requested on this IRA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments of the Notice provided above in ¶ 88. The Commission will send a copy of the Notice, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration. *See* 5 U.S.C. § 603(a). In addition, the Notice and IRFA (or summaries thereof) will be published in the Federal Register. *See id.*

A. Need For and Objectives of the Proposed Rules: With this *Notice*, the Commission commences a proceeding to review its broadcast applications and related rules. The Commission's goals are to streamline its procedures, speed introduction of new and expanded services to the public, reduce administrative burdens on regulatees, increase public access to information about the Bureau's actions and processing activities, and maximize efficiency in the use of Commission resources, while maintaining the technical integrity of broadcast services, fostering the Commission's goals of competition and diversity, continuing enforcement of the Commission's core rules and policies, and permitting members of the public a continued opportunity to monitor station performance. This review is taken in conjunction with the Commission's 1998 biennial regulatory review. Although Congress did not mandate this area of review, the Commission nonetheless undertakes it to assure that its rules and processes are no more regulatory than necessary to achieve Commission goals.

B. Legal Basis: Authority for the actions proposed in this *Notice* may be found in Sections 4(i), 4(j), 303, 308, 309, and 310 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 154(j), 303, 308, 309, and 310.

C. Description and Estimate of the Number of Small Entities to Which the Proposed Rules Will Apply: Under the RFA, small entities may include small organizations, small businesses, and small governmental jurisdictions. 5 U.S.C. § 601(6). The RFA, 5 U.S.C. § 601(3), generally defines the term "small business" as having the same meaning as the term "small business concern" under the Small Business Act, 15 U.S.C. § 632. A small business concern is one which: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration ("SBA"). Pursuant to 5 U.S.C. § 601(3), the statutory definition of a small business applies "unless an agency after consultation with the Office of Advocacy of the SBA and after opportunity for public comment, establishes one or more definitions of such term which are appropriate to the activities of the agency and publishes such definition(s) in the Federal Register."¹¹¹

¹¹⁰ *See* 5 U.S.C. § 603. The RFA, *see* 5 U.S.C. § 601 *et. seq.*, has been amended by the Contract with America Advancement Act of 1996, Pub. L. No. 104-12, 110 Stat. 848 (1996) ("CWAA"). Title II of the CWAA is the Small Business Regulatory Enforcement Fairness Act of 1996 ("SBREFA").

¹¹¹ While we tentatively believe that the SBA's definition of "small business" greatly overstates the number of radio and television broadcast stations that are small businesses and is not suitable for purposes of determining the impact of the proposals on small television and radio stations, for purposes of this *Notice*, we utilize the SBA's definition in determining the number of small businesses to which the proposed rules would apply, but we reserve the right to adopt a more suitable definition of "small business" as applied to radio and television broadcast stations or other entities subject to the proposed rules in this Notice and to consider further the issue of the number of small entities that are radio and television broadcasters or other small media entities in the future. *See Report and Order* in MM Docket No. 93-48 (*Children's Television Programming*), 11 FCC Rcd 10660, 10737-38 (1996), *citing* 5 U.S.C. § 601(3).

The proposed rules and policies will apply to television broadcasting licensees, radio broadcasting licensees and potential licensees of either service. The Small Business Administration defines a television broadcasting station that has no more than \$10.5 million in annual receipts as a small business.¹¹² Television broadcasting stations consist of establishments primarily engaged in broadcasting visual programs by television to the public, except cable and other pay television services.¹¹³ Included in this industry are commercial, religious, educational, and other television stations.¹¹⁴ Also included are establishments primarily engaged in television broadcasting and which produce taped television program materials.¹¹⁵ Separate establishments primarily engaged in producing taped television program materials are classified under another SIC number.¹¹⁶ There were 1,509 television stations operating in the nation in 1992.¹¹⁷ That number has remained fairly constant as indicated by the approximately 1,569 operating television broadcasting stations in the nation as of January 31, 1998.¹¹⁸ For 1992,¹¹⁹ the number of television stations that produced less than \$10.0 million in revenue was 1,155 establishments.¹²⁰

Additionally, the Small Business Administration defines a radio broadcasting station that has no more than \$5 million in annual receipts as a small business.¹²¹ A radio broadcasting station is an establishment primarily engaged in broadcasting aural programs by radio to the public.¹²² Included in this industry are

¹¹² 13 C.F.R. § 121.201, Standard Industrial Code (SIC) 4833 (1996).

¹¹³ Economics and Statistics Administration, Bureau of Census, U.S. Department of Commerce, 1992 CENSUS OF TRANSPORTATION, COMMUNICATIONS AND UTILITIES, ESTABLISHMENT AND FIRM SIZE, Series UC92-S-1, Appendix A-9 (1995).

¹¹⁴ *Id.* See Executive Office of the President, Office of Management and Budget, Standard Industrial Classification Manual (1987), at 283, which describes "Television Broadcasting Stations (SIC Code 4833) as:

Establishments primarily engaged in broadcasting visual programs by television to the public, except cable and other pay television services. Included in this industry are commercial, religious, educational and other television stations. Also included here are establishments primarily engaged in television broadcasting and which produce taped television program materials.

¹¹⁵ Economics and Statistics Administration, Bureau of Census, U.S. Department of Commerce, 1992 CENSUS OF TRANSPORTATION, COMMUNICATIONS AND UTILITIES, ESTABLISHMENT AND FIRM SIZE, Series UC92-S-1, Appendix A-9 (1995).

¹¹⁶ *Id.* SIC 7812 (Motion Picture and Video Tape Production); SIC 7922 (Theatrical Producers and Miscellaneous Theatrical Services (producers of live radio and television programs).

¹¹⁷ FCC News Release No. 31327, Jan. 13, 1993; Economics and Statistics Administration, Bureau of Census, U.S. Department of Commerce, *supra* note 110, Appendix A-9.

¹¹⁸ FCC News Release "Broadcast Station Totals as of January 31, 1998.

¹¹⁹ Census for Communications' establishments are performed every five years ending with a "2" or "7". See Economics and Statistics Administration, Bureau of Census, U.S. Department of Commerce, *supra* note 110, III.

¹²⁰ The amount of \$10 million was used to estimate the number of small business establishments because the relevant Census categories stopped at \$9,999,999 and began at \$10,000,000. No category for \$10.5 million existed. Thus, the number is as accurate as it is possible to calculate with the available information.

¹²¹ 13 C.F.R. § 121.201, SIC 4832.

¹²² Economics and Statistics Administration, Bureau of Census, U.S. Department of Commerce, *supra* note 110, Appendix A-9.

commercial religious, educational, and other radio stations.¹²³ Radio broadcasting stations which primarily are engaged in radio broadcasting and which produce radio program materials are similarly included.¹²⁴ However, radio stations which are separate establishments and are primarily engaged in producing radio program material are classified under another SIC number.¹²⁵ The 1992 Census indicates that 96 percent (5,861 of 6,127) radio station establishments produced less than \$5 million in revenue in 1992.¹²⁶ Official Commission records indicate that 11,334 individual radio stations were operating in 1992.¹²⁷ As of January 31, 1998, official Commission records indicate that 12,241 radio stations were operating, of which 7,488 were FM stations.¹²⁸

Thus, the proposed rules will affect many of the approximately 1,569 television stations, approximately 1,208 of which are considered small businesses.¹²⁹ Additionally, the proposed rules will affect some of the 12,241 radio stations, approximately 11,751 of which are small businesses.¹³⁰ These estimates may overstate the number of small entities since the revenue figures on which they are based do not include or aggregate revenues from non-television or non-radio affiliated companies.

In addition to owners of operating radio and television stations, any entity who seeks or desires to obtain a television or radio broadcast license may be affected by the proposals contained in this item. The number of entities that may seek to obtain a television or radio broadcast license is unknown. We invite comment as to such number.

D. Description of Projected Recording, Recordkeeping, and Other Compliance Requirements: The measures proposed in this *Notice* would reduce the reporting required of prospective and current applicants, permittees and licensees. All proposals aim to reduce the overall administrative burden upon both the public and the Commission. We propose to make the electronic filing of many broadcast related applications mandatory and seek comment as to whether to do so on a phased-in basis. We note that such a phased-in procedure has been used elsewhere to benefit small businesses. For example, the SEC incorporated its mandatory filing rules in stages. While most companies were phased into the electronic filing system in 1993, small businesses were not completely phased in until May 1996. We believe that electronic filing could, among other things, speed the processing of applications, save Commission resources, and make filing easier for regulatees by informing them of certain errors in their applications before they are actually sent.

The full benefits of electronic filing and processing would not be realized simply by concerting the current version of each form into an electronic format. We have therefore concluded that it is necessary to

¹²³ *Id.*

¹²⁴ *Id.*

¹²⁵ *Id.*

¹²⁶ The Census Bureau counts radio stations located at the same facility as one establishment. Therefore, each co-located AM/FM combination counts as one establishment.

¹²⁷ FCC News Release No. 31327, Jan. 13, 1993.

¹²⁸ FCC News Release "Broadcast Station Totals as of January 31, 1998."

¹²⁹ We use the 77 percent figure of TV stations operating at less than \$10 million for 1992 and apply it to the 1998 total of 1569 TV stations to arrive at 1,208 stations categorized as small businesses.

¹³⁰ We use the 96% figure of radio station establishments with less than \$5 million revenue from the Census data and apply it to the 12,241 individual station count to arrive at 11,751 individual stations as small businesses.

undertake a thorough review of broadcast forms and to reconsider both the information that is collected and the form in which it is submitted. Accordingly, we propose to delete or narrow overly burdensome questions and to rely more on applicant certifications. If adopted, these changes would both reduce applicant filing burdens and streamline our processing of sales, new station, and facility modification applications. We also tentatively propose to eliminate the rule restricting payments upon assignment or transfer of unbuilt stations. Further, we tentatively propose to eliminate the requirement that applicants file sales agreements as part of the assignment or transfer application, and that such agreements be filed with the Commission within thirty days of execution. Instead, we propose that such agreements would have to be placed in the station's public inspection file and the current permittee or licensee would be required to certify to such placement. In addition, we propose to make revisions to the sales forms that are intended to maximize the advantages of electronic filing and processing.

We further propose to reduce the frequency with which Ownership Reports (FCC Forms 323 and 323-E) for commercial and noncommercial educational AM, FM, and TV broadcast stations must be filed with the Commission. We tentatively believe that this proposal would ease the paperwork burden on licensees and permittees without impairing the public's ability to ascertain the identities of broadcast station owners.

E. Steps Taken to Minimize Significant Economic Impact on Small Entities and Significant Alternatives Considered: This *Notice* solicits comment on a variety of alternatives discussed herein. These alternatives are intended to streamline our rules and procedures. Our goals are to reduce applicant and licensee burdens, realize fully the benefits of the Mass Media Bureau's current electronic filing initiative, and preserve the public's ability to participate fully in our broadcast licensing processes. These proposals are designed to reduce filing burdens and increase the efficiency of application processing. Any significant alternatives presented in the comments will be considered.

F. Federal Rules that Overlap, Duplicate, or Conflict with the Proposed Rules: The initiatives and proposed rules raised in this proceeding do not overlap, duplicate or conflict with any other rules.

IT IS FURTHER ORDERED that the Commission's Office of Public Affairs, Reference Operations Division, SHALL SEND a copy of this Notice, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration. A copy of this IRFA will also be published in the Federal Register.

APPENDIX B

Attached are copies of revised FCC Forms 301 and 314.

FOR
FCC
USE
ONLY

FCC 301

APPLICATION FOR CONSTRUCTION PERMIT FOR COMMERCIAL BROADCAST STATION

FOR COMMISSION USE ONLY
FILE NO.

Section I - General Information

1. Legal Name of the Licensee/Permittee		
Mailing Address		
City	State or Country (if foreign address)	ZIP Code
Telephone Number (include area code)	E-Mail Address (if available)	
Call Sign(s)	Facility Identifier(s)	

2. Contact Representative (if other than licensee/permittee)	Firm or Company Name
Telephone Number (include area code)	E-Mail Address (if available)

3. If this application has been submitted without a fee, indicate reason for fee exemption (see 47 C.F.R. Section 1.1114):

☐ Governmental Entity ☐ Noncommercial Educational Licensee ☐ Other _____ ☐ N/A

4. Application Purpose.

- | | |
|--|--|
| <input type="checkbox"/> New station | <input type="checkbox"/> Major Modification of construction permit |
| <input type="checkbox"/> Major Change in licensed facility | <input type="checkbox"/> Minor Modification of construction permit |
| <input type="checkbox"/> Minor Change in licensed facility | <input type="checkbox"/> Major Amendment to pending application |
| | <input type="checkbox"/> Minor Amendment to pending application |

a. File number of original construction permit: _____ ☐ N/A

b. Service Type: ☐ AM ☐ FM ☐ TV

c. Channel No. or Frequency: _____

d. Community of License: _____

e. Facility Type: ☐ Main ☐ Auxiliary

NOTE: In addition to the information called for in this section, an explanatory exhibit providing full particulars must be submitted for each question for which a "No" response is provided.

Section II - Legal and Financial

1. **Certification.** Applicant certifies that it has answered each question in this application based on its review of the application instructions and worksheets. Applicant further certifies that where it has made an affirmative certification below, this certification constitutes its representation that the application satisfies each of the pertinent standards and criteria set forth in the application instructions and worksheets. ☐ Yes ☐ No
2. **Parties to the Application and Non-Party Equity Owners.** List the applicant, parties to the application and non-party equity owners. If other than natural persons, list officers, directors, stockholders with attributable interests, non-insulated partners and/or members. If a corporation or partnership holds an attributable interest in the applicant, list separately its officers, directors, stockholders with attributable interests, non-insulated partners and/or members.
 - a. Name and address of the applicant and, if applicable, its officers, directors, stockholders, or partners (if other than individual also show name, address and citizenship of natural person authorized to vote the stock). List the applicant first, officers next, then directors and, thereafter, remaining stockholders and partners.
 - b. Citizenship.
 - c. Positional Interest: Officer, director, general partner, limited partner, LLC member, etc.
 - d. Percentage of votes.
 - e. Percentage of equity.

a.	b.	c.	d.	e.

3. **Other Authorizations.** List call signs, locations, and facility identifiers of all other broadcast stations in which applicant or any party to the application has an attributable interest.

Exhibit No. ☐ N/A

4. **Multiple Ownership.** Applicant certifies that the proposed facility:
 - a. complies with the Commission's multiple and cross-ownership rules;
 - b. does not present an issue under the Commission's cross-interest policy;
 - c. does not present an issue under the Commission's policies relating to media interests of immediate family members;
 - d. complies with the Commission's policies relating to future ownership interests; and
 - e. complies with the Commission's restrictions relating to the insulation and non- participation of non-party investors and creditors.

☐ Yes ☐ No

Section II - Legal and Financial

5. **Character Issues.** Applicant certifies that neither applicant nor any party to the application has or has had any interest in, or connection with: ☐ Yes ☐ No
- a. any broadcast application in any proceeding which left unresolved character issues against the applicant or which resolved such issues against the applicant; or
 - b. any pending broadcast application in which character issues have been raised.
6. **Adverse Findings.** Applicant certifies that with respect to the applicant or any party to the application, no relevant adverse finding has been made nor has adverse final action been taken related to the following: any felony; mass media related antitrust or unfair competition; fraudulent statements to another governmental unit; or discrimination? ☐ Yes ☐ No
7. **Alien Ownership and Control.** Applicant certifies that it complies with the provisions of Section 310 of the Communications Act of 1934, as amended, relating to interests of aliens and foreign governments. ☐ Yes ☐ No
8. **Financial Qualifications.** Applicant certifies that sufficient net liquid assets are on hand or are available from committed sources to construct and operate the requested facility for three months without revenue. ☐ Yes ☐ No
9. **Program Service Certification.** Applicant certifies that it is cognizant of and will comply with its obligations as a Commission licensee to present a program service responsive to the issues of public concern facing the station's community of license and ☐ Yes ☐ No
10. **Local Public Notice.** Applicant certifies compliance with the public notice requirements of 47 C.F.R. Section 73.3580? ☐ Yes ☐ No
11. **Anti-Drug Abuse Act Certification.** Applicant certifies that neither applicant nor any party to the application is subject to denial of federal benefits pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988, 21 U.S.C. Section 862. ☐ Yes ☐ No

I certify that the statements in this application are true, complete, and correct to the best of my knowledge and belief, and are made in good faith. I acknowledge that all certifications and attached Exhibits are considered material representations. I hereby waive any claim to the use of any particular frequency as against the regulatory power of the United States because of the previous use of the same, whether by license or otherwise, and request an authorization in accordance with this application. (See Section 304 of the Communications Act of 1934, as amended.)

Typed or Printed Name of Person Signing	Typed or Printed Title of Person Signing
Signature	Date

SECTION III PREPARER'S CERTIFICATION

I certify that I have prepared Section III (Engineering Data) on behalf of the applicant, and that after such preparation, I have examined and found it to be accurate and true to the best of my knowledge and belief.

Name	Relationship to Applicant (e.g., Consulting Engineer)	
Signature	Date	
Mailing Address		
City	State or Country (if foreign address)	ZIP Code
Telephone Number (include area code)	E-Mail Address (if available)	

WILLFUL FALSE STATEMENTS ON THIS FORM ARE PUNISHABLE BY FINE AND/OR IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001).
AND/OR REVOCATION OF ANY STATION LICENSE OR CONSTRUCTION PERMIT (U.S. CODE, TITLE 47, SECTION 312(a)(1)).

AND/OR FORFEITURE (U.S. CODE, TITLE 47, SECTION 503).

SECTION III-A AM BROADCAST ENGINEERING DATA

TECHNICAL SPECIFICATIONS

Ensure that the specifications below are accurate. Contradicting data found elsewhere in this application will be disregarded. All items must be completed. The response "on file" is not acceptable. The response "not applicable" is not acceptable unless otherwise noted.

TECH BOX

1. **Frequency:** _____ kHz
2. **Class:** A ☐ B ☐ C ☐ D ☐
3. **Hours of Operation:** ☐ Unlimited ☐ Limited ☐ Daytime ☐ Share Time ☐ Specified Hours: _____
4. **Nondirectional:** ☐ Day ☐ Night ☐ Critical Hours ☐ Not Applicable

Estimated Efficiency: _____ mV/m per kW at 1 km

5. **Directional:** ☐ Daytime only (DA-D) ☐ Nighttime only (DA-N) ☐ Not Applicable
☐ Same constants day and night (DA-1)
☐ Different constants day and night (DA-2)
☐ Different constants day, critical hours, and night (DA-3)

Theoretical Efficiency: Day: _____ Night: _____ Critical Hours: _____ mV/m per kW at 1 km at 1 Ω loss

Standard Efficiency: Day: _____ Night: _____ Critical Hours: _____ mV/m per kW at 1 km

Q Factor: Day: _____ Night: _____ Critical Hours: _____

6. **Power:** Daytime _____ kW Nighttime _____ kW Critical Hours _____ kW

7. **Daytime Antenna Location Coordinates:**
To the nearest second (NAD 27)

LATITUDE	Degrees	Minutes	Seconds
LONGITUDE	Degrees	Minutes	Seconds

N ☐ S ☐

W ☐ E ☐

8. **Nighttime Antenna Location Coordinates:**
To the nearest second (NAD 27)

LATITUDE	Degrees	Minutes	Seconds
LONGITUDE	Degrees	Minutes	Seconds

9. **Tower Array:**

Towers	1	2	3	4
Height of radiator above base insulator, or above base, if grounded (rounded to nearest tenth of meter).				
Electrical Height of radiator (degrees).				
Overall height above ground (include obstruction lighting, rounded to nearest meter)				
Field				
Phase				
Orientation				
Tower Reference Switch				
Top Loaded Apparent Height				
Orientation				
Antenna Structure Registration.	Number _____ <input type="checkbox"/> Notification Filed with FAA. <input type="checkbox"/> Not applicable.	Number _____ <input type="checkbox"/> Notification Filed with FAA. <input type="checkbox"/> Not applicable.	Number _____ <input type="checkbox"/> Notification Filed with FAA. <input type="checkbox"/> Not applicable.	Number _____ <input type="checkbox"/> Notification Filed with FAA. <input type="checkbox"/> Not applicable.
Hours of operation (check all that apply).	<input type="checkbox"/> Day <input type="checkbox"/> Night <input type="checkbox"/> Critical Hours	<input type="checkbox"/> Day <input type="checkbox"/> Night <input type="checkbox"/> Critical Hours	<input type="checkbox"/> Day <input type="checkbox"/> Night <input type="checkbox"/> Critical Hours	<input type="checkbox"/> Day <input type="checkbox"/> Night <input type="checkbox"/> Critical Hours

For additional towers, submit an exhibit listing information requested above

SECTION III-A AM BROADCAST ENGINEERING DATA

CERTIFICATION

If any question is answered "No," a request for waiver, explanation, or justification must be submitted otherwise, the application will be returned without further consideration. Exhibits are required as noted.

13. **Broadcast Facility.** The proposed facility complies with the engineering standards and assignment requirements of 47 CFR §§ 73.24(e), 73.33, 73.45, 73.150, 73.152, 73.160, 73.182(a)-(i), 73.186, 73.189, 73.1650. **Exhibit Required.** ☐ YES ☐ NO
Exhibit No. _____
14. **Community Coverage.** The proposed facility complies with community coverage requirements of 47 CFR § 73.24(i). **Exhibit Required.** ☐ YES ☐ NO
Exhibit No. _____
15. **Main Studio Location.** The main studio complies with requirements of 47 CFR § 73.1125. ☐ YES ☐ NO
Exhibit No. _____
16. **Interference.** The proposed facility complies with all of the following applicable rule sections. Check all those that apply. A separate **exhibit is required** for each applicable section as indicated.
- Groundwave.**
- a) ☐ 47 CFR § 73.37. Exhibit No. _____
- Skywave.**
- b) ☐ 47 CFR § 73.182. Exhibit No. _____
- Critical Hours.**
- c) ☐ 47 CFR § 73.187. Exhibit No. _____
- Blanketing Interference.** The proposed facility complies with the requirements of 47 CFR § 73.24(g). ☐ YES ☐ NO
Exhibit No. _____
17. **Environmental Protection Act.** The proposed facility is excluded from environmental processing under 47 CFR § 1.1306 (*i.e.*, the facility will not have a significant environmental impact and complies with the maximum permissible radiofrequency electromagnetic exposure limits for controlled and uncontrolled environments). Unless the applicant can determine compliance through the use of the RF worksheets in Appendix A, an **exhibit is required**. ☐ YES ☐ NO
Exhibit No. _____
18. **Site Availability.** Applicant certifies that it has reasonable assurance that the site or proposed structure will be available for the applicant's intended purpose. ☐ YES ☐ NO

PREPARER'S CERTIFICATION ON PAGE 3 MUST BE COMPLETED AND SIGNED.

SECTION III-B FM BROADCAST ENGINEERING DATA (FCC Form 301)

TECHNICAL SPECIFICATIONS

Ensure that the specifications below are accurate. Contradicting data found elsewhere in this application will be disregarded. All items must be completed. The response "on file" is not acceptable. The response "not applicable" is not acceptable unless otherwise noted.

TECH BOX

1. Channel Number: _____

2. Class (select one): A ___ B1 ___ B ___ C3 ___ C2 ___ C1 ___ C ___

3. Antenna Location Coordinates:

4. One-Step proposal allotment coordinates
filed pursuant to MM Docket 92-159:
_____ Not applicable

To the nearest second (NAD 27)

LATITUDE	Degrees	Minutes	Seconds	N <input type="checkbox"/> S <input type="checkbox"/>
LONGITUDE	Degrees	Minutes	Seconds	W <input type="checkbox"/> E <input type="checkbox"/>

To the nearest second (NAD 27)

LATITUDE	Degrees	Minutes	Seconds
LONGITUDE	Degrees	Minutes	Seconds

5. Antenna Structure Registration Number: _____

_____ Not applicable

_____ FAA Notification Filed with FAA

6. Antenna Location Site Elevation Above Mean Sea Level: _____ meters

7. Overall Tower Height Above Ground Level: _____ meters

8. Effective Radiated Power: _____ kW (H) _____ kW (V)

9. Maximum Effective Radiated Power: _____ Not applicable _____ kW (H) _____ kW (V)
(Beam-Tilt Antenna ONLY)

10. Height of Radiation Center Above Ground Level: _____ meters (H) _____ meters (V)

11. Height of Radiation Center Above Average Terrain: _____ meters (H) _____ meters (V)

12. Directional Antenna Relative Field Values: _____ Not applicable

Rotation: _____ ° _____ None

Degree	Value	Degree	Value	Degree	Value	Degree	Value	Degree	Value	Degree	Value
0		60		120		180		240		300	
10		70		130		190		250		310	
20		80		140		200		260		320	
30		90		150		210		270		330	
40		100		160		220		280		340	
50		110		170		230		290		350	
Additional Azimuths											

SECTION III-B FM BROADCAST ENGINEERING DATA (FCC Form 301)

CERTIFICATION

If any question is answered "No," a request for waiver, explanation, or justification must be submitted otherwise, the application will be returned without further consideration. Exhibits are required as noted.

AUXILIARY ANTENNA APPLICANTS ARE NOT REQUIRED TO RESPOND TO ITEMS 13-16. PROCEED TO ITEM 17.

13. **Allotment.** The proposed facility complies with the allotment requirements of 47 CFR § 73.203. ☐ YES ☐ NO

14. **Community Coverage.** The proposed facility complies with community coverage requirements of 47 CFR § 73.315. ☐ YES ☐ NO

15. **Main Studio Location.** The main studio complies with requirements of 47 CFR § 73.1125. ☐ YES ☐ NO

16. **Interference.** The proposed facility complies with all of the following applicable rule sections. Check all those that apply. ☐ YES ☐ NO

Separation Requirements.

a) ☐ 47 CFR § 73.207

Grandfathered Short-Spaced.

b) ☐ 47 CFR § 73.213(a) with respect to station(s): _____

Exhibit Required.

Exhibit No. _____

c) ☐ 47 CFR § 73.213(b) with respect to station(s): _____

Exhibit Required.

Exhibit No. _____

d) ☐ 47 CFR § 73.213(c) with respect to station(s): _____

Exhibit Required.

Exhibit No. _____

Contour Protection.

e) ☐ 47 CFR § 73.215 with respect to station(s): _____

Exhibit Required.

Exhibit No. _____

Cross-Modulation. The applicant accepts full responsibility for the elimination of cross-modulation interference with respect to facilities in close proximity to the proposed transmitter site that are in existence or authorized prior to the grant of this application and the elimination receiver-induced modulation caused to radio receivers in use prior to the grant of this application. ☐ YES ☐ NO

17. **Environmental Protection Act.** The proposed facility is excluded from environmental processing under 47 CFR § 1.1306 (*i.e.*, the facility will not have a significant environmental impact and complies with the maximum permissible radiofrequency electromagnetic exposure limits for controlled and uncontrolled environments). Unless the applicant can determine compliance through the use of the RF worksheets in Appendix A, an exhibit is required. ☐ YES ☐ NO

Exhibit No. _____

18. **Site Availability.** Applicant certifies that it has reasonable assurance that the site or proposed structure will be available for the applicant's intended purpose. ☐ YES ☐ NO

PREPARER'S CERTIFICATION ON PAGE 16 MUST BE COMPLETED AND SIGNED.

SECTION III-C - TV BROADCAST ENGINEERING DATA

TECHNICAL SPECIFICATIONS

Ensure that the specifications below are accurate. Contradicting data found elsewhere in this application will not be disregarded. All items must be completed. The response "on file" is not acceptable. The response "not applicable" is not acceptable unless otherwise noted. If any item is incomplete, the application will be returned without further consideration.

TECH BOX

1. Channel Number: _____

2. Offset: Plus _____ Minus _____ Zero _____

3. Zone: I _____ II _____ III _____

4. Antenna Location Coordinates:
To the nearest second (NAD 27)

Latitude	Degrees	Minutes	Seconds
Longitude	Degrees	Minutes	Seconds

Antenna Location Address: (specify address, city, county and state. If no address, specify distance and bearing relative to the nearest town or landmark.

5. Antenna Structure Registration Number: _____ ☐ Not Applicable

☐ FAA Notification Filed with FAA

6. Antenna Location Site Elevation Above Mean Sea Level: _____ meters

7. Overall Tower Height Above Ground Level: _____ meters

8. Height of Radiation Center Above Ground Level: _____ meters

9. Height of Radiation Center Above Average Terrain (HAAT): _____ meters

10. Height of Radiation Center Above Mean Sea Level: _____ meters

11. Maximum Effective Radiated Power: _____ kW

12. Antenna Make _____ Model No. _____

13. a. Electrical Beam Tilt: _____ degrees ☐ Not Applicable

b. Mechanical Beam _____ degrees toward azimuth _____ degrees True ☐ Not Applicable

Attach as an Exhibit all data specified in 47 C.F.R. Section 73.685.

Exhibit No. _____

14. Proposed antenna is: ☐ Horizontally Polarized ☐ Circularly Polarized ☐ Elliptically Polarized

TECH BOX - cont'd

15. Directional Antenna Relative Field Values:

☐ Not Applicable

Reference Azimuth _____ degrees True

Degrees	Value	Degrees	Value	Degrees	Value	Degrees	Value	Degrees	Value	Degrees	Value
0		60		120		180		240		300	
10		70		130		190		250		310	
20		80		140		200		260		320	
30		90		150		210		270		330	
40		100		160		220		280		340	
50		110		170		230		290		350	
Additional Azimuths											

16. Terrain and coverage data (to be calculated in accordance with 47 C.F.R. Section 73.684)

Source of terrain data: (check only one box below)

- ☐ Linearly interpolated 30-second database (Source: _____)
- ☐ 7.5 minute topographic map
- ☐ Other (briefly summarize)

Radial bearing (degrees True)	Height of radiation center above average elevation of radial from 3 to 16 km (meters)	Predicted Distances		
		To the City Grade Contour (kilometers)	To the Grade A contour (kilometers)	To the Grade B contour (kilometers)
*				
0				
45				
90				
135				
180				
225				
270				
315				

*Radial through principal community, if not one of the major radials. This radial should NOT be included in the calculation of HAAT.

CERTIFICATION

An answer of "Yes" to all of the questions below will ensure an expeditious grant of this application. However, if the proposed facility is located within the Canadian or Mexican borders, coordination of the proposal under the appropriate treaties may be required prior to the grant of the application.

If any question is answered "No," a request for waiver, explanation, or justification must be submitted. If any question is answered "No," and a request for waiver, explanation, or justification is not submitted, the application will be returned without further consideration. Exhibits are required as noted.

Allotment

17. The proposed facility complies with the allotment requirements of 47 C.F.R. Section 73.607.

☐ Yes ☐ No

Auxiliary Antenna Applications - By checking Yes above, the applicant also certifies that if an auxiliary antenna is proposed, the facility complies with 47 C.F.R. Section 73.1675(a). Exhibit Required.

Exhibit No.

AUXILIARY ANTENNA APPLICANTS ARE NOT REQUIRED TO RESPOND TO ITEMS 18-21. PROCEED TO ITEM 22.

Power and Antenna Height

18. The proposed facility complies with 47 C.F.R. Section 73.614.

☐ Yes ☐ No

Community Coverage

19. The proposed facility complies with community coverage requirements of 47 C.F.R. Section 73.685(a) and (b)..

☐ Yes ☐ No

Main Studio Location

20. The main studio complies with the requirements of 47 C.F.R. Section 73.1125.

☐ Yes ☐ No

Interference

21. The proposed facility complies with all of the following applicable rule sections:

☐ Yes ☐ No

Check all that apply

- ☐ 47 C.F.R. Section 73.610
- ☐ 47 C.F.R. Section 73.685(c). Exhibit required.
- ☐ 47 C.F.R. Section 73.685(d)
- ☐ 47 C.F.R. Section 73.685(g). Exhibit required.
- ☐ 47 C.F.R. Section 73.685(h). Exhibit required.

Exhibit No.

Exhibit No.

Exhibit No.

Directional Antenna

By checking Yes above, the applicant also certifies that if a directional antenna is proposed, the directional antenna complies with 47 C.F.R. Section 73.685(e) and (f). Exhibit Required.

Exhibit No.

22. The applicant accepts full responsibility for the elimination of cross-modulation interference with respect to facilities in close proximity to the proposed transmitter site that are in existence or authorized prior to the grant of this application and the elimination of receiver-induced modulation caused to radio receivers in use prior to the grant of this application. ☐ Yes ☐ No

23. The requirements of 47 C.F.R. Section 73.1030 regarding notification to radio astronomy installations, radio receiving installations and FCC monitoring stations have either been satisfied or are not applicable. ☐ Yes ☐ No

If the proposed facility is required to be notified to the National Radio Astronomy Observatory, the applicant is required to provide the date the proposed facility was notified to the Observatory: _____

24. The FCC has issued a registration for the antenna structure proposed in this application; ☐ Yes ☐ No
OR
the registration for the antenna structure is not required because the structure does not require notification to the FAA pursuant to 47 C.F.R. Section 17.7;
OR
the FAA was notified of the proposed facility pursuant to 47 C.F.R. Section 17.7.

Environmental Protection Act

25. The proposed facility is excluded from environmental processing under 47 C.F.R. Section 1.1306; i.e., the facility will not have a significant environmental impact and complies with the maximum permissible radiofrequency electromagnetic exposure limits for controlled and uncontrolled environments. ☐ Yes ☐ No
Exhibit Required.

Radiofrequency Electromagnetic Exposure

By checking Yes above, the applicant also certifies that the applicant, in coordination with other users of the site, will reduce power or cease operation as necessary to protect persons having access to the site, tower or antenna from radiofrequency electromagnetic exposure in excess of FCC guidelines.

The determination of compliance with exposure limits must account for all collocated and nearby radiating sources that operate at frequencies between 300 kHz and 100 GHz.

PREPARER'S CERTIFICATION ON PAGE 3 MUST BE COMPLETED AND SIGNED.